

FILED



9:16 am, 8/24/23

Margaret Botkins
Clerk of Court

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

KEMMERER LABARGE ROYALTIES, LLC,
a Wyoming Limited Liability Company,

Plaintiff,

VS.

**DENVER-LABARGE OIL AND GAS
COMPANY, a Colorado Corporation, AND
ANY OTHER UNKNOWN CLAIMANTS TO
DENVER-LABARGE OIL AND GAS
COMPANY INTERESTS,**

Defendants

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Civil Action No. 23-CV-150-J

NOTICE OF REMOVAL

Defendants Remnant Assets, LLC as successor-in-interest to Denver-Labarge Oil and Gas Company, a Colorado Corporation (“Remnant”) and Calmonica Petroleum Corporation, a Delaware company file this Notice of Removal and, in support thereof, would show the Court as follows:

1. On March 6, 2023, Plaintiff Kemmerer Labarge Royalties, LLC, a Wyoming Limited Liability Company (“Kemmerer Labarge”) filed suit in Civil Action number 2023-cv-8979 in the Ninth Judicial District Court of Sublette County, Wyoming against Defendants DENVER-LABARGE OIL AND GAS COMPANY, a Colorado Corporation (Denver-Labarge) and any other unknown claimants to Denver-Labarge oil and gas company interests. Plaintiff requested service by publication despite the Calmonica’s documented interest in the property records in Sublette County *See Exhibit 1*, documentation of override interest.

2. After submitting proof by publication, Plaintiff requested the clerk enter a default judgment as no party came forward as a defendant. On June 6, 2023, the clerk

entered a default judgment. Plaintiff then moved the state district court to enter a default judgment.

3. On June 27, 2023, the state district court entered a default judgment in favor of Plaintiff.

4. On or around July 25, 2023, the above-named Defendants became aware of the judgment when reviewing the property records in Sublette County. On July 25, 2023, Defendants timely filed a motion for new trial and also requested the court vacate the default judgment and set it aside.

5. Pursuant to Local Rule 81.1, Defendants will within fourteen (14) days of entry of the Order on Removal file with the Clerk of this Court a copy of the entire state court record and proceedings, including the docket sheet.

6. Both named Defendants are represented by the same counsel and consent to removal.

7. The claims asserted against Defendants are civil causes of action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332. *See Jenkins v. MTGLQ Invs.*, 218 F. App'x 719, 724 (10th Cir. 2007) (affirming removal of a factually similar scenario). Plaintiff is a Wyoming limited liability company, whose members on information and belief are citizens of, Wyoming. *See Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008) (holding LLC's citizenship is dependent on that of its members). Denver-Labarge was a Colorado corporation with, on information and belief, its principal place of business in Colorado. Remnant Assets is a LLC owned by three members which are citizens of Texas and Tennessee. *See id.* Calmonica is organized and incorporated in Delaware and its principal place of business is in Delaware.

8. The amount in controversy exceeds \$75,000.00 as Plaintiff seeks title to mineral interests which includes money held by the Wyoming State Treasurer's office which is in excess of \$500,000.00. *See* 28 U.S.C. § 1446(c)(2)(A).

9. All defendants consent to this removal.

10. This notice of removal is timely filed under 28 U.S.C. § 1446(b). Plaintiff's service by publication was defective and neither Calmonica nor Denver-Labarge (and Remnant) were properly served; therefore, the timeline never began to run. *See Jenkins*, 218 F. App'x at 724. Further, this notice of removal is filed within thirty (30) days after Defendants appeared in the state district court.

11. Further, this notice of removal is timely filed under 28 U.S.C. § 1446(c), requiring removal within "1 year after commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action." Plaintiff filed their complaint in March of 2023.

12. Notice to State Court. Pursuant to 28 U.S.C. § 1446(d) Defendants intend to serve written notice of this removal on the state court promptly after filing this Notice of Removal.

13. For these reasons, Defendants Remnant Assets, LLC as successor-in-interest to Denver-Labarge Oil and Gas Company, a Colorado Corporation and Calmonica Petroleum Corporation hereby effectuate removal of this cause to this Court.

Respectfully submitted,



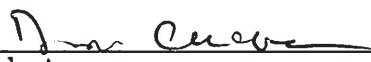
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**ATTORNEY FOR DEFENDANTS,
REMNANT ASSETS, LLC AS
SUCCESSOR-IN-INTEREST TO
DENVER-LABARGE OIL AND GAS
COMPANY, A COLORADO
CORPORATION AND CALMONICA
PETROLEUM CORPORATION, A
DELAWARE COMPANY**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of Notice of Removal has been forwarded to all counsel of record in accordance with the Federal Rules of Civil Procedure on August 24, 2023, as follows:

Method of Service	Party(ies)	Counsel
Electronic service and service by mail	Plaintiff	Scott Ortiz Will E. Reese Williams Porter, Day & Neville P.C. P.O. Box 10700 Casper, WY 82602-0700 307-265-0700 307-266-2306—Facsimile sortiz@wpdn.net wreese@wpdn.net



Dale Aronson

RECORDED December 20, 1962 9:00 AM
 IN BOOK 125-2-199-2 Page 186
 FEES \$ 2.00
 SUBMITTER COUNTY CLERK
 COUNTY PINELLAS, FLORIDA

F-09561A
 E-07261B

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RECEIPT AND RELEASE

WHEREAS, by an instrument dated the 25th day of April, 1939, between CALMONICA PETROLEUM CORPORATION, "Lessee", and NORTH LABARGE OIL COMPANY, "Operator", the North LaBarge Oil Company as "Operator" became obligated to pay to Calmonica Petroleum Corporation two and one-half percent (2-1/2%) of the value of production of oil or gas produced, saved and sold from the following described lands:

The Northeast Quarter (NE1/4) and East Half of the Northwest Quarter (E1/2NW1/4) of Section Seventeen (17), Township Twenty-seven (27) North, Range One Hundred Thirteen (113) West, of the Sixth Principal Meridian, containing two hundred forty (240) acres, situated in Sublette County, Wyoming;

and

The West Half of the Northwest Quarter (W1/2NW1/4) of Section Seventeen (17), Township Twenty-seven (27) North, Range One Hundred Thirteen (113) West of the Sixth Principal Meridian, containing Eighty (80) acres, situated in Sublette County, Wyoming;

(or allocated thereto under the terms of North LaBarge Unit agreement)

until the gross sum of \$75,000.00 has been paid to "Lessee"; and

WHEREAS, by an agreement dated the 11th day of October, 1939, by and between Calmonica Petroleum Corporation, as the first party, Steven and Veda Grinch, doing business as Oregana Refining Company, as the second party, and North LaBarge Oil Company as the third party; Calmonica Petroleum Corporation did assign and set over to the Midvale Oil Corporation one and one-half percent (1-1/2%) out of the two and one-half percent (2-1/2%) royalty referred to in paragraph 1 above, until the sum of \$12,000.00 had been paid; and

WHEREAS, Western Oil Refining Company and Belco Petroleum Corporation have by means conveyances succeeded to the operating interest of the North LaBarge Oil Company in and to the oil and gas operating rights conveyed by the agreement of April 25, 1939, referred to in paragraph 1 above; and

WHEREAS, Western Oil Refining Company and Belco Petroleum

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EXHIBIT

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exhibitster.com

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- (a) Lease dated : June 30, 1932
 Lease expires: Entire lease extended for the life of the Unit Area (see decision 12/19/52)
 Rental due : June 30, deductible from royalties.
- (b) Lease dated : April 23, 1936
 Lease expires: April 23, 1955, subject to being converted to a single 5 year lease, or extended as is for successive 10 year periods.

1. 08561 (a):
T. 27 N., R. 113 W., 6th P.M., Wyoming:
Sec. 17: NE/4, E/2 NW/4
 containing 240 acres, more or less,
 all of said lands being subject to the following
 oil payments and royalties heretofore reserved:

Western Slope Oil and Refining Company	3-1/3%
Calmonica Petroleum Corp.	3-1/3%
K-A-H-L Oil and Refining Syndicate	7/8 of 1%
Denver-LaBarge Oil and Gas Company	5/8 of 1%
Central LaBarge Royalties	2-1/2%
Clara Hanaford	1/8 of 1%
Doris Dale Young Chaffin	1/8 of 1%
Elizabeth A. Young Ryan	1/8 of 1%
Nina L. Young	3/8 of 1%

This area together with all other lands herein described is subject to an oil payment totaling \$75,000.00, payable out of 2-1/2% of the production to the Calmonica Petroleum Corporation, or its assignees, i. e., Oreaana Refining Company and Midvale Oil Corporation, which oil payment has been reduced by payments duly made from all production heretofore obtained on said lands.

- 2: 08561 (b)
 This area is not included in the North La Barge Unit Area.
T. 27 N., R. 113 W., 6th P.M., Wyoming:
Sec. 17: W/2 NW/4

containing 80 acres, more or less,
 said land being subject to the following oil
 payments and royalties heretofore reserved:

Calmonica Petroleum Corp.	1%
Western Slope Oil and Refining Company	1%
Central La Barge Royalties	3/4 of 1%
Clara Hanaford	1/12 of 1%
Doris Dale Young Chaffin	1/12 of 1%
Elizabeth A. Young Ryan	1/12 of 1%
Nina L. Young	1/4 of 1%
Denver-La Barge Oil and Gas Company	1/4 of 1%
K-A-H-L Oil and Refining Syndicate	1/4 of 1%

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3. 07671 (a):
T. 27 N., R. 113 W., 6th P.M., Wyoming:
Section 8: N/2 SE/4

said land being subject to the following oil
 payments and royalties heretofore reserved:

Wyoming LaBarge and Dry Piney Oil Corporation	4%
Emily C. Willey	2/3 of 1%
Emerson C. Willey	6/30 of 1%
Mary Price Willey	2/3 of 1%
O. P. Soule	4/10 of 1%
Joseph A. Minton, as Assignee of A. L. Hawkins	1%
Susan J. Quealy	1/3 of 1%
Midvale Oil Corporation	2-1/2%

This area, together with other lands herein described, is subject to an oil payment totaling \$25,000.00, payable out of 1-1/2% of the production in the following amounts and proportions to the heirs, successors or assigns of Harry K. Smith and Edith A. Smith:

	Proportion	Total
Ruby Knutson	1/2	\$12,500
Sadie Smith	1/2	\$12,500

which oil payment has been reduced by payments duly made from all production heretofore obtained on said lands.

4. T. 27 N., R. 113 W., 6th P.M., Wyoming:

Section 8: S/2 SE/4
 said land being subject to the following
 royalties heretofore reserved:

Wyoming La Barge and Dry Piney Oil Corporation	4%
Emily C. Willey	2/3 of 1%
Emerson C. Willey	6/30 of 1%
Mary Price Willey	2/3 of 1%
O. P. Soule	4/10 of 1%
Joseph A. Minton, as Assignee of A. L. Hawkins	1%
Susan J. Quealy	1/3 of 1%
Midvale Oil Corporation	2-1/2%

Lease Evanston 07671(a) and Lease Evanston 07671(b) contain 640 acres more or less.

C. Evanston 08561(a) and Evanston 08561(b) by and through an Operating Agreement from Calmonias Petroleum Corporation to North La Barge Oil Company dated April 26, 1938, covering the following described lands: